

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

RICARDO MEDRANO,

Plaintiff,

v.

CIVIL ACTION NO. 5:09-cv-00570

DAVID BERKEBILE,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Plaintiff's Motion to Dismiss [Docket 7]. By Standing Order entered on August 1, 2006, and filed in this case on May 20, 2009, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation (PF&R). Magistrate Judge VanDervort filed his PF&R [Docket 52] on August 21, 2009, recommending that this Court **GRANT** the motion to dismiss and **DISMISS** the Complaint [Dockets 2 and 6] without prejudice.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *and United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court

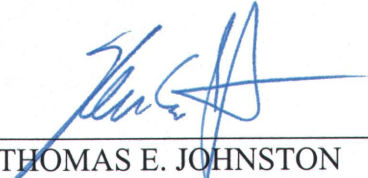
to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). In this case, objections to the PF&R were due by September 8, 2009. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the recommendation contained in the PF&R, **GRANTS** Plaintiff's Motion to Dismiss [Docket 7], **DISMISSES** the Complaint [Dockets 2 and 6] without prejudice, and **DIRECTS** the Clerk to remove the matter from the Court's docket. A separate Judgment Order will enter this day implementing the rulings contained herein.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: September 22, 2009

A handwritten signature in blue ink, appearing to read "Thomas E. Johnston", is written over a horizontal line.

THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE